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STATUTORY INSTRUMENTS

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**1996 No. 890**

**HEALTH AND SAFETY**

**The Marking of Plastic Explosives  
for Detection Regulations 1996**

*Made* - - - - *19th March 1996*  
*Laid before Parliament* *28th March 1996*  
*Coming into force in accordance with regulation 1*

The Secretary of State, in exercise of the powers conferred on him by sections 15(1) and (2), and 82(3)(a) of, and paragraphs 1(1)(b) and 2(1) of Schedule 3 to, the Health and Safety at Work etc. Act 1974(1) (“the 1974 Act”) and of all other enabling powers, and for the purpose of giving effect without modifications to the proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Marking of Plastic Explosives for Detection Regulations 1996 and shall come into force on 31st July 1997 or on the day on which the Convention enters into force for the United Kingdom (such date to be notified by the Secretary of State in the London, Edinburgh and Belfast Gazettes) whichever is the earlier.

**Interpretation**

2.—(1) In these Regulations,

“authorised military device” means an explosive article, including, but not limited to, a shell, bomb, projectile, mine, missile, rocket, shaped charge, grenade or perforator, which, in any case, is manufactured solely for lawful military or police purposes;

“the Convention” means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1st March 1991;

“detection agent” means a substance named in column 1 of the Table in Part II of the Schedule to these Regulations;

“the Executive” means the Health and Safety Executive;

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(1) 1974 c. 37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraphs 6 and 16 respectively.

“explosive” shall be construed in accordance with Part I of the Schedule to these Regulations; “explosive article” and “explosive substance” have the meanings respectively assigned to them by regulation 2(1) of the Classification and Labelling of Explosives Regulations 1983<sup>(2)</sup>;

“manufacture” means any process, including reprocessing, that is for the purpose of producing explosives and related expressions shall be construed accordingly;

“marked” shall be construed in accordance with paragraph (2) of this regulation and related expressions shall be construed accordingly;

“State Party to the Convention” means any state which has deposited in accordance with Article XIII of the Convention an instrument of ratification, acceptance, approval or accession to the Convention with the International Civil Aviation Organisation, or any other body from time to time designated the Depository under the Convention, and in respect of which a denunciation under Article XV of the Convention has not taken effect.

(2) For the purposes of these Regulations, an explosive is marked if it, or a sample of the explosive, contains a detection agent of at least the concentration specified in the corresponding entry for that detection agent in column 2 of the Table in Part II of the Schedule to these Regulations, whether that detection agent is introduced during the process of manufacture of the explosive for the purpose of making the explosive detectable or as a result of the normal formulation of that explosive.

### **Prohibition on manufacture**

3. No person shall manufacture any explosive, the finished product of which is unmarked.

### **Prohibition on possession**

4.—(1) No person shall have in his possession, nor transfer possession of, any unmarked explosive.

(2) Paragraph (1) of this regulation shall not apply to an explosive that is in the process of being manufactured.

(3) Paragraph (1) of this regulation shall not apply for a period of 3 years, commencing with the date of coming into force of these Regulations, to any unmarked explosive manufactured before these Regulations come into force.

(4) Paragraph (1) of this regulation shall not apply to any unmarked explosive in the possession of military or police personnel, where the explosive is incorporated as an integral part of an authorised military device, before the date which is 3 years after the date of coming into force of these Regulations.

(5) Notwithstanding paragraph (3), paragraph (1) of this regulation shall not apply for a period of 15 years, commencing with the date of coming into force of these Regulations, to any unmarked explosive which—

- (a) was manufactured before these Regulations come into force;
- (b) does not fall within paragraph (4); and
- (c) is in the possession of the authorities of a State Party to the Convention for military or police purposes.

### **Importation**

5.—(1) No person shall import any unmarked explosive into the United Kingdom.

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(2) [S.I. 1983/1140](#).

(2) Paragraph (1) of this regulation shall not apply for a period of 15 years, commencing with the date of coming into force of these Regulations, to any unmarked explosive manufactured before these Regulations come into force and imported by the authorities of a State Party to the Convention for military or police purposes.

### **Enforcement**

6. Notwithstanding the provisions of the Health and Safety (Enforcing Authority) Regulations 1989<sup>(3)</sup>, the Executive shall be the enforcing authority for these Regulations in Great Britain and in those areas outside Great Britain to which these Regulations apply by virtue of regulation 7.

### **Extension outside Great Britain**

7. These Regulations shall apply to and in relation to the activities and premises outside Great Britain to which sections 1 to 59 and 80 to 82 of the Health and Safety at Work etc. Act 1974 apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1995<sup>(4)</sup> as they apply within Great Britain.

### **Application to Northern Ireland**

8. These Regulations, other than regulations 3, 4 and 6, shall extend to Northern Ireland.

Home Office  
19th March 1996

*Michael Howard*  
One of Her Majesty's Principal Secretaries of  
State

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(3) S.I. 1989/1903.  
(4) S.I. 1995/263.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Regulation 2

### PART 1

#### MEANING OF “EXPLOSIVE”

1. For the purposes of these Regulations “explosive” means an explosive substance, commonly known as a “plastic explosive”, including such substance in flexible or elastic sheet form and whether or not contained in an explosive article, which is—

- (a) formulated with one or more high explosives which in their pure form have a vapour pressure less than  $10^{-4}$  Pa at a temperature of 25°C;
- (b) formulated with a binder material; and
- (c) malleable or flexible at normal room temperature.

2. The following explosives, even though meeting the description of explosives in paragraph 1 of this Part, shall not be considered to be explosives for the purposes of these Regulations as long as their manufacture or possession continues to be to a quantity and for a purpose specified in any of sub-paragraphs (a) to (c) of this paragraph or they continue to satisfy the description specified in sub-paragraph (d) of this paragraph, namely any explosive—

- (a) the manufacture or possession of which is to a quantity no greater than is necessary for the purpose of, and is solely for use in, lawful research, development or testing of new or modified explosives;
- (b) the manufacture or possession of which is to a quantity no greater than is necessary for the purpose of, and is solely for use in, lawful training in explosives detection or development or testing of explosives detection equipment;
- (c) the manufacture or possession of which is to a quantity no greater than is necessary for, and is solely for, the purpose of lawful forensic science; or
- (d) which is manufactured in the United Kingdom, and destined to be incorporated as an integral part of an authorised military device in the United Kingdom, before the date which is 3 years after the coming into force of these Regulations.

3. In this Part “high explosives” include, but are not restricted to, cyclotetramethylenetetranitramine (HMX), pentaerythritol tetranitrate (PETN) and cyclotrimethylenetrinitramine (RDX).

### PART II

#### DETECTION AGENTS

Table

(1) Name of detection agent	(2) Minimum concentration
Ethylene glycol dinitrate (EGDN)	0.2% by mass
2,3-Dimethyl-2,3-dinitrobutane (DMNB)	0.1% by mass
para-Mononitrotoluene (p-MNT)	0.5% by mass
ortho-Mononitrotoluene (o-MNT)	0.5% by mass

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement in part the Convention on the Marking of Plastic Explosives for the Purpose of Detection, done at Montreal on 1st March 1991. They make provision for ensuring that plastic explosives are marked in such a way that they are detectable.

Regulation 2 provides that a marked explosive is one which contains a detection agent. Regulation 2 and Schedule 1 further provide for the definition of “explosive” and the type and concentration of detection agent which must be contained in an explosive in order for that explosive to be marked.

Regulation 3 prohibits the manufacture of any explosive, the finished product of which is unmarked.

Regulation 4 prohibits the possession and transfer of possession of an unmarked explosive save where the explosive is in the process of being manufactured. There is transitional provision for persons who possess or transfer unmarked explosives manufactured before the Regulations come into force for a period of three years after that date.

Regulation 5 prohibits the importation of unmarked explosives.